

19-1863-cv

Hayward v. IBI Armored Servs.

1 UNITED STATES COURT OF APPEALS
2 FOR THE SECOND CIRCUIT

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5 August Term, 2019

6
7 (Argued: March 26, 2020

Decided: April 3, 2020)

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9 Docket No. 19-1863-cv
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13 TRAVIS HAYWARD,

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15 *Plaintiff-Appellant,*

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17 v.

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19 IBI ARMORED SERVICES, INC., MICHAEL SHIELDS,

20
21 *Defendants-Appellees.*¹
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25 Before: JACOBS, POOLER, and CARNEY, *Circuit Judges.*
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27 Travis Hayward and opt-in plaintiffs (collectively, “plaintiffs”) appeal
28 from the June 24, 2019 judgment of the United States District Court for the
29 Eastern District of New York (I. Leo Glasser, J.) granting defendants’ motion for

¹ The Clerk of Court is respectfully directed to amend the official caption as set forth above.

1 partial summary judgment and dismissing plaintiffs' claims for overtime pay
2 pursuant to the New York Labor Law's ("NYLL's") overtime-pay provision, 12
3 N.Y.C.R.R. § 142-2.2. Although the district court correctly concluded that
4 plaintiffs were ineligible for overtime pay at a rate of one and one-half times their
5 regular wage, the district court erred in holding that plaintiffs were ineligible for
6 any overtime pay under the NYLL. A plain reading of the NYLL's overtime-pay
7 provision demonstrates that employees subject to certain exemptions under the
8 Fair Labor Standards Act, including the Motor Carrier Exemption, must be paid
9 overtime at a rate of one and one-half times the minimum wage. Accordingly, we
10 vacate the district court's grant of partial summary judgment and remand for
11 further proceedings.

12 VACATED and REMANDED.

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14 _____
15 MICHAEL H. ZHU, New York, N.Y., *for Plaintiff-*
16 *Appellant Travis Hayward.*

17 Peter H. Cooper, Cilenti & Cooper, PLLC, New York,
18 N.Y. (*on the brief*), *for Plaintiff-Appellant Travis Hayward.*

19
20 STACY L. PITCHER, Obermayer Rembann Maxwell &
21 Hippel (Dove A.E. Burns, *on the brief*), New York, N.Y.,

1 *for Defendants-Appellees IBI Armored Services, Inc. and*
2 *Michael Shields.*

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4 PER CURIAM:

5 Travis Hayward and opt-in plaintiffs (collectively, “plaintiffs”) appeal
6 from the June 24, 2019 judgment of the United States District Court for the
7 Eastern District of New York (I. Leo Glasser, J.) granting defendants’ motion for
8 partial summary judgment and dismissing plaintiffs’ claims for overtime pay
9 pursuant to the New York Labor Law’s (“NYLL’s”) overtime-pay provision, 12
10 N.Y.C.R.R. § 142-2.2. Although the district court correctly concluded that
11 plaintiffs were ineligible for overtime pay at a rate of one and one-half times their
12 regular wage, the district court erred in holding that plaintiffs were ineligible for
13 any overtime pay under the NYLL. A plain reading of the NYLL’s overtime-pay
14 provision demonstrates that employees subject to certain exemptions under the
15 Fair Labor Standards Act, including the Motor Carrier Exemption, must be paid
16 overtime at a rate of one and one-half times the minimum wage. Accordingly, we
17 vacate the district court’s grant of partial summary judgment and remand for
18 further proceedings.

BACKGROUND

Travis Hayward and twenty-eight other plaintiffs brought suit against defendants IBI Armored Services and its owner Michael Shields on May 15, 2017. Plaintiffs are current or former employees of IBI Armored Services, a vehicle service that transports money to and from grocery stores and banks in New York City. In 2014, Hayward was paid \$11 per hour, and in 2015, he was paid \$12 per hour. Plaintiffs allege violations of the Fair Labor Standards Act (“FLSA”), 21 U.S.C. § 201, *et seq.*, and New York Labor Law Section 650, *et seq.* (“NYLL”). Specifically, plaintiffs claim that since May 2014, they had not been paid minimum wage, overtime, or spread-of-hours compensation and that they were not given proper wage statements.

Defendants moved for summary judgment on plaintiffs’ FLSA and NYLL claims for overtime compensation on the basis that plaintiffs are exempt from the FLSA under the Motor Carrier Exemption and therefore ineligible for overtime pay under the FLSA or NYLL. The Motor Carrier Exemption provides that the FLSA’s overtime compensation requirement does not apply to “any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of

1 section 31502 of Title 49” 29 U.S.C. § 213(b)(1). Plaintiffs did not dispute the
2 applicability of this exemption to twenty-five plaintiffs, including Hayward.
3 However, plaintiffs argued that they were entitled to overtime compensation
4 under the NYLL at a rate of one and one-half times the minimum wage.

5 As relevant here, the district court granted defendants’ motion for partial
6 summary judgment on these twenty-five plaintiffs’ FLSA and NYLL claims for
7 overtime compensation. In doing so, the district court held that the NYLL adopts
8 the FLSA’s Motor Carrier Exemption, so plaintiffs were not entitled to any
9 overtime compensation under the NYLL.

10 Plaintiffs timely appealed the district court’s dismissal of their NYLL
11 claims for overtime compensation.

12 DISCUSSION

13 This Court reviews the grant of summary judgment de novo. *City of*
14 *Syracuse v. Onondaga County*, 464 F.3d 297, 310 (2d Cir. 2006). “Specifically,
15 because the district court’s disposition presents only a legal issue of statutory
16 interpretation . . . we review *de novo* whether the district court correctly
17 interpreted the statute.” *Id.* (internal quotation marks, brackets, and citation
18 omitted).

1 Plaintiffs argue that, although the NYLL's overtime-pay provision, 12
2 N.Y.C.R.R. § 142-2.2, adopts the Motor Carrier Exemption and prevents them
3 from receiving overtime compensation at a rate of one and one-half times their
4 regular wage, the provision alternately provides that employers must pay
5 exempt employees overtime compensation at a rate of one and one-half times the
6 minimum wage. Defendants argue that employees subject to the Motor Carrier
7 Exemption are exempted from the entirety of the NYLL's overtime-pay
8 provision.²

9 The NYLL's overtime-pay provision reads:

10 An employer shall pay an employee for overtime at a wage rate of one
11 and one-half times the employee's regular rate in the manner and
12 methods provided in and subject to the exemptions of sections 7 and
13 13 of 29 USC 201 *et seq.*, the Fair Labor Standards Act of 1938, as
14 amended, provided, however, that the exemptions set forth in section
15 13(a)(2) and (4) shall not apply. In addition, an employer shall pay
16 employees subject to the exemptions of section 13 of the Fair Labor
17 Standards Act, as amended, except employees subject to section
18 13(a)(2) and (4) of such act, overtime at a wage rate of one and one-
19 half times the basic minimum hourly rate.

² Defendants also argue that the FLSA preempts the NYLL. We need not address this argument in great detail, as our precedent makes clear that the FLSA does not preempt state regulation of overtime wages. *See, e.g., Pettis Moving Co. v. Roberts*, 784 F.2d 439, 441 (2d Cir. 1986).

1 12 N.Y.C.R.R. § 142-2.2.

2 A plain reading of the provision demonstrates that employees subject to
3 FLSA exemptions like the Motor Carrier Exemption are nonetheless entitled to
4 overtime compensation at a rate of one and one-half times the minimum wage.
5 This is clear from the second sentence of the provision. This sentence requires
6 that “employees subject to the exemptions of section 13 of the Fair Labor
7 Standards Act, as amended, except employees subject to section 13(a)(2) and (4)”
8 be paid “overtime at a wage rate of one and one-half times the basic minimum
9 hourly rate.” *Id.* Because the Motor Carrier Exemption is an exemption under
10 Section 13(b)(1) of the FLSA, employees who are subject to this exemption must
11 receive overtime compensation at a rate of one and one-half times the minimum
12 wage.

13 We disagree with defendants’ argument that the phrase “subject to the
14 exemptions of section 13” in the second sentence is intended to exclude FLSA-
15 exempt employees from receiving overtime compensation. It is evident from the
16 sentence’s structure that the phrase “subject to the exemptions of section 13”
17 serves as a descriptor modifying the term “employees,” rather than a carveout.

1 “[S]ubject to the exemptions of section 13” follows directly after the term
2 “employees,” and this suggests that the phrase modifies “employees.”

3 In addition, defendants’ reading of the Minimum Wage Order would
4 render the second sentence redundant. If the first and second sentences both
5 applied to the same population of employees (that is, non-FLSA-exempt
6 employees and employees subject to the exemptions in sections 13(a)(2) and
7 13(a)(4) of the FLSA), there would be no need for the second sentence. The first
8 sentence’s requirement to pay employees at a rate of one and one-half times the
9 employees’ regular rate applies equally to those earning minimum wage and
10 those earning more—and therefore, the second sentence would have no additive
11 value. Defendants’ interpretation thus contravenes the principle that courts
12 should construe statutes “in a manner that gives effect to all of their provisions.”
13 *United States ex rel. Eisenstein v. City of New York*, 556 U.S. 928, 933 (2009).

14 In short, the NYLL clearly states that for employees who are exempt from
15 the FLSA under the Motor Carrier Exemption, employers must provide overtime
16 compensation at a rate of one and one-half times the minimum wage.

17 Accordingly, the district court erred in dismissing plaintiffs’ NYLL claims for

overtime compensation on the basis that the NYLL precludes FLSA-exempt employees from receiving overtime compensation.

CONCLUSION

For the foregoing reasons, we VACATE and REMAND the district court's grant of partial summary judgment as to plaintiffs' NYLL claims.

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

A handwritten signature in black ink, reading "Catherine O'Hagan Wolfe". The signature is written in a cursive, flowing style. It is positioned over a circular official seal of the United States Court of Appeals, Second Circuit. The seal features the words "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom, with stars on either side of the central text.